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15 Attorneys for Defendants
ALEXA INTERNET, INC. and NIALL
16 O'DRISCOLL

17 UNITED STATES DISTRICT COURT
18
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN JOSE DIVISION

**DOCUMENT SUBMITTED
UNDER SEAL**

21 GIRAFA.COM, INC.,
22 Plaintiff,

23 v.

24 ALEXA INTERNET, INC.; NIALL
25 O'DRISCOLL ,
26 Defendants.

CASE NO. CV 08-02745 RMW

PUBLIC REDACTED VERSION

**DECLARATION OF M. ELIZABETH DAY
IN SUPPORT OF DEFENDANTS'
MOTION FOR ATTORNEYS' FEES AND
COSTS PURSUANT TO CALIFORNIA
CODE OF CIVIL PROCEDURE SECTION
425.16(c)**

Date: November 21, 2008
Time: 9:00 am
Dept: 6, 4th floor
Judge: Ronald M. Whyte

-1-

1 I, M. Elizabeth Day, declare as follows:

2 1. I am a partner in the law firm of DLA Piper LLP (US) ("DLA Piper"), attorneys of
3 record in this action for Defendants Alexa Internet, Inc. and Niall O'Driscoll ("Defendants"). I
4 am lead counsel in this matter and have personal knowledge of the facts contained herein.

5 2. I submit this declaration in support of Defendants' Motion for Attorneys' Fees and
6 Costs Pursuant to California Code of Civil Procedure Section 425.16(c) against Plaintiff
7 Girafa.com, Inc. ("Plaintiff").

8 3. The special motion to strike Plaintiff's third claim pursuant to Code of Civil
9 Procedure section 425.16 (the "Anti-SLAPP Motion"), filed on behalf of Defendants required the
10 application of skill and experience in this area of law. Because the third claim involved broad
11 factual allegations, counsel for Defendants were forced to expend time and effort to prepare and
12 file the Anti-SLAPP Motion, review Plaintiff's opposition, prepare a reply brief and prepare and
13 argue Defendants' position at the hearing before this Court on September 12, 2008. The total
14 amount of fees incurred by counsel for Defendants on the current Anti-SLAPP Motion,
15 \$22,798.50, was reasonable.


16 4. A summary of the work performed, and the attorneys' fees sought, by Defendants
17 in preparing and presenting their Anti-SLAPP Motion is filed herewith. Attached hereto as
18 Exhibit A, Exhibit B, Exhibit C and Exhibit D are true and correct copies of the four DLA Piper
19 fee invoices that reflect the work performed by DLA Piper attorneys in connection with the Anti-
20 SLAPP Motion during June, July, August and September, 2008. Each entry on the invoices lists
21 the date on which the work was performed, a description of the work performed, the name of the
22 attorney performing the work, and the amount of time spent performing the work. The amount of
23 attorneys' fees is determined by multiplying the hourly fee rate of the attorney who performed the
24 work by the amount of time spent on the work. The relevant hourly rates are as follows: Thomas
25 G. Pasternak, Partner (\$[REDACTED]); M. Elizabeth Day, Partner (\$[REDACTED]); Greg Lundell, Associate
26 (\$[REDACTED]); John R. Hurley, Associate (\$[REDACTED]).

27 5. The Court will note that the attached invoices are redacted in part. These
28 redactions reflect work performed by the attorneys on tasks unrelated to Defendants' Anti-SLAPP

1 Motion, such as Defendants' separate motion to dismiss, transfer or stay the litigation.
2 Defendants are not seeking to recover any fees in connection with work that has been redacted in
3 the invoices. Also, when an attorney's work on any given day was divided between work on the
4 Anti-SLAPP Motion and other work on this case, the amount of time listed on the invoice for the
5 attorney's work for that day has been adjusted downward so that it only reflects time spent on
6 tasks relating to the Anti-SLAPP Motion.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct to the best of knowledge.

9 Dated: October 17, 2008

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11 M. Elizabeth Day
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